

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ERNEST J. FRANCESCHI, JR.,

Plaintiff,

vs.

DWIGHT CHORNOMUD, *et al.*,

Defendants.

Case No. 2:07-cv-00203-LRH-GWF

**FINDINGS AND
RECOMMENDATIONS**

On June 19, 2008, the Court issued Order (#51), which scheduled a hearing on July 3, 2008, to show cause why Defendant Dwight Chornomud's answer should not be stricken and his default entered for his failure to participate in the preparation of the joint pretrial order. Defendant Dwight Chornomud failed to appear for the hearing to show cause. Accordingly,

RECOMMENDATION

IT IS HEREBY RECOMMENDED that Defendant Dwight Chornomud's Answer to Plaintiff's Complaint (#9) be **stricken**, and his default entered for his failure to participate in preparing a joint pretrial order in this case and in failing to respond to the Court's order to show cause.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues

1 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
2 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

3 DATED this 3rd day of July, 2008.

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6 **GEORGE FOLEY, JR.**
7 **UNITED STATES MAGISTRATE JUDGE**
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